DOCKET 08-AFC-8		
DATE	MAY 12 2010	

RECD. MAY 12 2010

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:)	Docket No.08-AFC-8
)	
The Application for Certification of)	
Hydrogen Energy California Power Plant)	
)	

STATUS REPORT OF THE KERN-KAWEAH CHAPTER OF THE SIERRA CLUB

May 12, 2010

Babak Naficy (State Bar No. 177709) Law Offices of Babak Naficy 1504 Marsh Street San Luis Obispo, CA 93401 Telephone: (805) 593-0926 Facsimile: (805) 593-0946 babaknaficy@sbcglobal.net

Counsel for the SIERRA CLUB

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:)	Docket No.08-AFC-8
)	
The Application for Certification of)	
Hydrogen Energy California Power Plant)	
)	

STATUS REPORT OF THE KERN-KAWEAH CHAPTER OF THE SIERRA CLUB

Pursuant to the Committee's April 22, 2010 Scheduling Order, Intervenor, Kern-Kaweah Chapter of the Sierra Club ("Sierra Club") submits this status report.

Sierra Club participated in the Data Response and Issue Resolution Staff Workshop on April 12, 2010. While this workshop helped our understanding of many of the issues, resolution of several outstanding issues must await further responses from the applicant. Moreover, it appears that a full understanding of the substantive issues will not be possible until other responsible agencies, particularly the Department of Fish and Game ("DFG") and the San Joaquin Valley Air Pollution District ("SJVAPCD"), have weighed in.

Sierra Club remains concerned about the project's biological and air quality impacts, especially the particulate matter (PM) emissions which will be significant. We are interested in exploring potential mitigation measures to reduce this impact. During the April 12 Workshop, it emerged that many of the issues we are concerned about may be more within the purview of the SJVAPCD. For this reason, Sierra Club will take part in the permitting process before the SJVAPCD in order to address the project's air emissions.

Finally, Sierra Club is concerned about the implications of the widely-reported news that

Occidental Petroleum, Hydrogen Energy's partner in this venture, has been actively supporting a

ballot initiative aimed at rescinding California's AB 32. We are concerned that even as

Occidental touts the "mitigation of carbon emissions" from the IGCC power plant as one of the

project's benefits (See, e.g., Preliminary Project Description (Pre-Feed Stage), at p. 7), it is

actively attempting to subvert the very law that requires mitigation of carbon emissions because

of the impact on climate change. We hope that in the course of future proceedings, we get

clarification from Occidental Petroleum in this regard.

In anticipation of the impending release of the Preliminary Staff Assessment ("PSA"), we

continue to review the available data and documents. Moreover, Sierra Club also intends to

participate in the May 21, 2010 Staff Workshop on Carbon Dioxide Enhanced Oil Recovery to

gain a better understanding of that aspect of the project. While we look forward to the May 26,

2010 scheduled release of Part 1 of the PSA, we ask that the Committee provide the parties with

advanced notice if the release will be delayed.

Dated: May 12, 2010

Respectfully submitted,

Original Signed

Babak Naficy 1504 Marsh Street

San Luis Obispo, CA 93401 (805) 593-0926

Telephone: Facsimile:

(805) 593-0946

babaknaficy@sbcglobal.net

2

DECLARATION OF SERVICE

I, Babak Naficy, declare that on May 12, 2010, I mailed a hard copy of the attached Sierra Club's Status Report. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list.

FOR SERVICE TO ALL OTHER PARTIES:

sending electronically to all email addresses on the Proof of Service list;

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. <u>08-AFC-8</u> 1516 Ninth Street, MS-4 Sacramento, CA 95814-5512 docket@energy.state.ca.us

I declare under penalty of perjurv that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Babak Naficy



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA 1516 NINTH STREET, SACRAMENTO, CA 95814 1-800-822-6228 – www.energy.ca.gov

APPLICATION FOR CERTIFICATION FOR THE HYDROGEN ENERGY CALIFORNIA PROJECT

Docket No. 08-AFC-8

PROOF OF SERVICE LIST (Rev. 5/10/10)

APPLICANT

Gregory D. Skannal
Tiffany Rau
Rick Harrison
Hydrogen Energy International LLC
One World Trade Center, Suite 1600
Long Beach, CA 90831
gregory.skannal@hydrogenenergy.com
tiffany.rau@hydrogenenergy.com
rick.harrison@hydrogenenergy.com

Asteghik Khajetoorians, Senior BP Legal Attorney BP America, Inc. 6 Centerpointe Drive, LPR 6-550 La Palma, CA 90623 Asteghik Khajetoorians@bp.com

APPLICANT'S CONSULTANT

Dale Shileikis, Vice President Energy Services Manager Major Environmental Programs URS Corporation 221 Main Street, Suite 600 San Francisco, CA 94105-1917 dale_shileikis@urscorp.com

COUNSEL FOR APPLICANT

Michael J. Carroll Latham & Watkins, LLP 650 Town Center Drive, 20th Fl. Costa Mesa, CA 92626-1925 michael.carroll@lw.com

INTERESTED AGENCIES

California ISO e-recipient@caiso.com

INTERVENORS

Tom Frantz
Association of Irritated Residents
30100 Orange Street
Shafter, CA 93263
tfrantz@bak.rr.com

Kern-Kaweah Chapter
of the Sierra Club
Babak Naficy
Law Offices of Babak Naficy
1504 Marsh Street
San Luis Obispo, California 93401
babaknaficy@sbcqlobal.net

*Environmental Defense Fund (EDF) Timothy O'Connor, Esq. 1107 Ninth St., Suite 540 Sacramento, CA 95814 toconnor@edf.org

ENERGY COMMISSION

JAMES D. BOYD Vice Chair and Presiding Member jboyd@energy.state.ca.us

JEFFREY D. BYRON Commissioner and Associate Member jbyron@energy.state.ca.us

Raoul Renaud Hearing Officer rrenaud@energy.state.ca.us

Kristy Chew Adviser to Commissioner Boyd e-mail service preferred kchew@energy.state.ca.us

Rod Jones Project Manager rjones@energy.state.ca.us

Lisa De Carlo Staff Counsel Idecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us